THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P. No.16488 of 2004

Dated: 30.10.2006

Between:-

Jyothi Sai Teja Self Help Group,
Kakaraparru village,
Peravali Mandal, W.G.Dist.

..Petitioner

And

1. Government of Andhra Pradesh, rep. by its Secretary, Food, Civil Supplies & Consumer Affairs Department, Secretariat, Hyderabad and 3 others.

..Respondents

ORDER:

This writ petition is filed seeking Mandamus declaring the Notification dated 30-06-2004, insofar as item No.3 is concerned in file No.B.378/2004, issued by the 3rd respondent, as arbitrary and illegal.

2. It appears, the petitioner is a Development of Women and Children in Rural Area Group (for brevity 'DWCRA Group'). A Notification dated 30-06-2004 has been issued by the 3rd respondent-the Revenue Divisional Officer (R.D.O.), Kovvur, West Godavari District, calling applications for filling up of vacancies of fair price shops in the division. The petitioner is concerned with Kakaraparru village, shop No.4, insofar as it being reserved for Backward Class (women).

3. It is the case of the petitioner that as per the instructions issued by the Government, from time to time, the DWCRA Groups should be preferred to the individuals since the DWCRA Groups are managed by the group of women. In the present notification, there is no such note saying that the DWCRA Groups will be preferred to the individuals. Therefore, the impugned notification insofar as item No.3 is concerned is arbitrary and illegal.

4. At the time of admission, no interim orders were passed.

5. A detailed counter-affidavit has been filed by the respondents 1 to 3 stating that in the entire Kovvur Division, there are 410 shops available and out of them, presently 69 have been

allotted to women. Among them, 64 were already allotted to the Societies and Mahila Mandals. The impugned notification has been issued as per the Rules of Reservation in allotting the fair price shops in Kovvur Division. The Kovvur Revenue Division is taken as one unit for the purpose of implementation of reservation. Item No.3 of the Notification dated 30-06-2004 was reserved for B.C. women category. Therefore, the contention of the petitioner is not tenable and the Notification has been issued as per the Rules invogue. Further, the table given in this regard would show that in the category of B.C. women, though 26 shops were to be allotted, only 18 shops were allotted. Thus, there are more than 8 vacancies in the category of B.C. women itself.

6. I am of the opinion, may be the DWCRA Groups are supposed to be preferred against the individuals, but not in a case where reservation has been categorically indicated. May be in a given case, even against the shop, which is reserved for B.C., also could have been reserved for DWCRA Group, but that itself does not give them absolute right of claiming shop for DWCRA Groups. The respondents ought to have taken care before issuing notification also indicating the preference that could be given to the DWCRA Group.

7. In the facts and circumstances, I am of the opinion that the impugned order does not suffer from any infirmity or illegality calling for interference of this Court under Article 226 of the Constitution of India. However, the Revenue Divisional Officer, Kovvur, is directed to take care that in future, whenever any vacancy is notified, the same shall be done as per the instructions issued by the Government from time to time, particularly, indicating that DWCRA Groups will be preferred to the individuals.

8. Subject to above observation, the Writ Petition stands dismissed. No order as to costs.

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October 30, 2006

KVR